



December 16, 2002

Peggy Harris

Comments submitted via e-mail to ewaste@calepa.ca.gov.

RE: Comments of EIA: Electronic Wastes Forum, November 25, 2002

Dear Peggy:

Thank you for this opportunity to further explain the Electronic Industries Alliance's (EIA) comments communicated during the November 25, 2002, Electronic Wastes Forum. EIA is a national trade organization that includes the full spectrum of manufacturers, representing more than 80% of the \$550 billion electronics industry. EIA, headquartered in Arlington, Virginia, is comprised of more than 2,300 member companies whose products and services range from the smallest electronic components to the most complex systems used by defense, space and industry. EIA also represent the full range of consumer electronic product manufacturers.

In preparation for the forum, EIA and other panelists were asked to address five specific questions. Our responses and suggestions are stated below.

1. How would you make the European Union's Waste Electrical and Electronics Equipment (WEEE) Model or the models adopted by individual countries work successfully in California?

EIA and its member companies strongly feel that the most efficient and cost effective solution to the end-of-life electronics issue must be a voluntary solution that is national in scope. The WEEE Directive took more than five years to develop and the implementation details continue to be worked out. It is crucial that, when developing a workable framework for the United States, we need to carefully consider all financing options and implementation details and their potential impacts on all stakeholders.

The member countries in the EU have had 18 months to develop legislation and a plan for implementation of the WEEE Directive's provisions. Nationally and, in California, we will require a realistic time period to develop a system that will work effectively, be fair to consumers, governments and manufacturers, and avoid the creation of competitive advantages or disadvantages -- for companies and California's economy.



EU countries that have implemented legislation, prior to passage of the WEEE Directive, are largely based on a point of sale, advanced recovery fee system, similar to Senator Sher's 2002 legislative proposal, SB 1523. What those systems have done is similar to what Governor Davis has suggested: 1) work with industry to develop a system that works and, 2) allow for flexibility to account for different business models. We need to take this opportunity to examine what is needed for California, inventory the existing infrastructure, and figure out what consumers and residents are willing to do. The WEEE directive acknowledges that consumers and local governments will play a major role in the success of the system. California should first recognize that stakeholder participation is key to the development of an effective solution and develop a system that takes into account the habits and needs of residents. Second, California should work with industry and retail interests to develop a level playing field that challenges industry to meet the goals outlined by Governor Davis. Finally, the state must recognize that the industry is willing to work on a California system, but only if the need for a national approach is recognized and the multi-stakeholder team learns from the mistakes and successes that have already been made, whether in Europe, Asia or other systems.

2. What types of modifications to the WEEE Model would you propose that would make WEEE work better?

This specific question is difficult to answer since we have not seen how EU member countries will implement the directive. If California examines what has been done in Holland, Belgium and Switzerland, it can learn from the lessons experienced in those countries. The Dutch system was found to violate antitrust laws in that country because of its fee structure. The system that California develops should comply with all laws including antitrust, interstate commerce, and currently existing state regulations.

The Belgium system has only recently been implemented (last year). California should model its solution on the WEEE Directive until that system has had a chance to work out details. One criticism that has been raised regarding the Belgium system is the concern that the cost of collection under that system is higher than needed due to the system allowing opportunities for reuse organizations to take any products that come into the system. The cost of promoting reuse increase the overall system costs in Belgium. There is a need to account for differences in laws in California and the United States when we develop a system. Governor Davis acknowledged that this is not just a California problem but a national issue. California should work with other states and the federal government to develop a viable system that can account for state-specific needs and the global nature of the industry.



3. What aspects of the WEEE Model do not address California's unique electronic waste needs or infrastructure? What are some options or solutions that may be added to the WEEE Model to address California's electronic waste those aspects?

The WEEE directive was not designed for single state implementation. Legal challenges, such as RCRA, Superfund, Proposition 65, interstate commerce, and others, were never taken into account when the WEEE Directive was debated. Since California and the US are not members of the EU, any group examining the possible application of the WEEE directive should examine the economic, geographical and legal differences between the EU and US. The geography of the US and even California alone may not allow for the type of collection system that is contemplated in the Directive. In order to determine the next steps should be taken in California, three actions should be taken. First, determine whether the study done by CIWMB accurately reflects the number of CRTs that will need to come into the system. Second, determine the financing structure that will most efficiently bring those products to proper recyclers. Third, work with industry to develop systems that are effective and create a level playing field. The only way to address this issue in CA is to avoid creating competitive advantages or disadvantages to manufacturers or California businesses and ensure that the ultimate system fairly applies to all manufacturers and all types of sales.

4. What are some incentives that would encourage manufacturers to incorporate the concept of “design for the environment” into electronic products?

EIA will be commenting on the procurement guidelines and we believe that that is the only way that CA can “incentivise” any aspect of design in the global electronics marketplace. EIA member companies are committed to decreasing the impact of their products over their entire life cycles, while continuing to provide the same functionality and reliability. One example of a project already underway is the US EPA Life Cycle Analysis (LCA) projects. Last year a study was completed comparing the traditional CRT technology with the flat panel displays. EIA is currently working with US EPA a second project, examining the life cycle impacts of leaded solders when compared to lead free alternatives.

5. Some European countries are interested in utilizing third party organizations to handle the WEEE requirements. How would you adapt such a system to California?

This would be an implementation detail that California will need to assess in order to determine if the WEEE Directive and third party organizations can meet the goals



outlined by Governor Davis. EIA would support the creation of a recycling counsel or task force to begin examining this complex issue. However, the concepts of individual and collective responsibility would need to be explored as well as determining whether a third party organization can be effective at the state level.

Conclusion

EIA welcomes all opportunities to work with the California government on creating solutions to this complex issue. Thank you for allowing EIA to be a part of the November 25 forum and this opportunity to provide our comments.

Sincerely,

Heather S. Bowman
Director, Environmental Affairs